IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-11-2006

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA
AND
THE HONOURABLE MR. JUSTICE J.A.K. SAMPATH KUMAR

WRIT PETITION NO.11919 OF 1998

R. Gandhi, Senior Advocate,
Madras 20. .. Petitioner

Vs.

1. The Government of Tamil Nadu,
   rep. by its Secretary,
   Home Department, Fort St.George,
   Chennai 9.

2. The Secretary to Government,
   PWD Department,
   Fort St. George, Chennai 9.

3. The Secretary to Government,
   Highways Department,
   Fort St. George, Chennai 9.

4. The Union Minister of India
   for Surface Transport,
   Rep. by Secretary,
   Ministry of Surface Transport
   and National Highways,
   501, Sastri Bhavan, New Delhi.

5. The Secretary to Government,
   Department of Local Administration,
   Fort St. George, Chennai 9.

6. The Director General of Police,
   Chennai 2. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus as stated therein.

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For Petitioner : Mr.R. Gandhi
Senior Advocate
(Party-in-person)

For Respondents 1to3: and 5 & 6 : Mr. Edwin Prabhakar
Government Advocate

For Respondent-4 : Mr.K. Ramakrishna Reddy
ACGSC

O R D E R

(Order of the Court was made by P.K. MISRA, J)

This is a public interest litigation filed by a Senior Advocate of the Madras High Court. Prayer in the writ petition is for issuing a writ of Mandamus directing the respondents, namely, the State Government, and its subordinate officials and the Central Government, represented by the Ministry of Surface Transport and National Highways to strictly enforce the traffic regulations and restrictions as contemplated under the Motor Vehicles Act and the Rules and direct the respondents to enact fresh rules and regulations for punishing the encroachers of road margins and banning the use of public roads as drying yards for spreading agricultural produces.

2. The petitioner, a Senior Advocate of this Court, has reflected his anguish over several motor accidents occurring daily and the consequent loss of lives. He has highlighted the fact that even though the Motor Vehicles Act contains several provisions empowering the concerned authorities to impose speed restrictions, parking restrictions, etc., yet the authorities do not make sincere effort to control the vehicles in the Highways as within the city limit. He has lamented the fact that the roads including the Highways are not suited to travel at more than 60 to 70 kms per hour and the roads are quite narrow which ultimately result not only in traffic congestion, but also at times collision between the vehicles. Even the speed limits prescribed for cars and heavy vehicles are not enforced strictly. It has been also highlighted that the highways and other roads do not have reasonable margin on either side for parking and even where the highways pass through some villages, invariably such roads, become constricted because of the unauthorised encroachment by many, particularly shop owners. Even at times the National Highway, State Highway and other public Highways are used as drying ground for paddy or other agricultural produce which cause the passing vehicles to skid thereby leading to unforeseen accidents. The petitioner has also highlighted about the use of fish-carts (So far as this aspect is concerned, specific directions have already been issued by the High Court and, therefore, it is not necessary to refer to this aspect relating to use of fish-carts). The petitioner has also pointed out about carrying of more passengers than the permissible limit in vehicles including autorickshaw. With such allegations, the petitioner has prayed for issuance of writ of Mandamus directing the respondents to enforce

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strictly the traffic rules and regulations and the provisions contained in the Motor Vehicles Act.

3. When the matter was taken up for hearing, the petitioner, who was appearing in person, submitted that the grievance in respect of plying of fish-cart has already been met in another public interest litigation. The petitioner, however, submitted that so far as other aspects are concerned, necessary directions should be issued by the Court in public interest.

4. Learned counsel appearing for the State submitted that the concerned authorities are conscious of the public duty enjoined upon them by various provisions contained in the Motor Vehicles Act and the Rules and the authorities are making serious efforts to ensure a disciplined traffic not only within the city limits, but on the highways. Therefore, he has submitted that no specific direction is required to be issued.

5. Having heard the petitioner and the counsels for respondents at length, we definitely find sufficient justification for the anguish expressed by the petitioner. There is no doubt regarding the fact that the various newspapers day-in and day-out highlight news relating to death caused due to accident caused by motor vehicles. Many of these accidents are obviously on account of negligent driving of reckless drivers, who do not bother about the safety regulations either because they are unconcerned or even because many of them drive while under the influence of intoxicants. It is therefore obvious that the authorities vested with the duty to maintain smooth vehicular movement are required to maintain hawk-eyed vigil, particularly relating to speeding vehicles and also regarding the persons driving vehicles under the influence of intoxicants.

6. There is no doubt as has been submitted by the learned counsel representing the State that steps are being taken by the patrolling party to control the vehicular movement within the city limits as well as beyond the city limits on the highways. However, the statistics relating to accidents in various parts of the World clearly point out that incidents of damage caused due to accident are much higher in India rather than in other countries. Even within the limited resources available in India, there is room for improving the situation by widening the roads, by installing proper mechanical device to check speeding of vehicles and even to check the drivers driving under influence of intoxicants. It goes without saying that the authorities concerned should bestow serious attention on such never ending problems so that the people using the roads would heave a collective sigh of relief on account of improvement in the road safety. The roads should not become death traps for the unwary or even for the persons using such roads. The authorities concerned should obviously try to enforce various rules and regulations with much more sincerity.

7. Though we have no doubt that sincere efforts would be made to make the roads safer for the citizens, we expect the authorities concerned to bestow particular attention to following aspects :-

(a) Adequate measures for enforcing speed regulations.

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(b) Strict vigil to prevent intoxicated drivers driving the vehicles.
(c) Removal of encroachments from the roads and roads margins, of course, in accordance with law.
(d) Strict regulations relating to public processions and public meetings, particularly over busy thoroughfare.
(e) Prevention of traveling by passengers on footboards and rooftops of public service vehicles.

8. With these observations, the writ petition is disposed of. We place on record our appreciation for the fair manner in which submissions have been made by the petitioner in person as well as the learned counsels for the respondents. Connected W.M.P.No.18161/98 is closed. No costs.

dpk

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary,
   The Government of Tamil Nadu,
   Home Department, Fort St.George,
   Chennai 9.

2. The Secretary to Government,
   PWD Department,
   Fort St. George, Chennai 9.

3. The Secretary to Government,
   Highways Department,
   Fort St. George, Chennai 9.

4. The Secretary to
   the Union Minister of India
   for Surface Transport,
   Ministry of Surface Transport
   and National Highways,
   501, Sastri Bhavan, New Delhi.

5. The Secretary to Government,
   Department of Local Administration,
   Fort St. George, Chennai 9.

6. The Director General of Police,
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JRG(CO)
dcp/9.6.07

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